

Message Text

LIMITED OFFICIAL USE

PAGE 01 MTN GE 05946 261524Z

53

ACTION STR-04

INFO OCT-01 IO-13 ISO-00 STRE-00 H-02 L-03 AID-05 CEA-01

CIAE-00 COME-00 EB-07 EUR-12 FRB-03 INR-07 NSAE-00

CIEP-01 SP-02 TRSE-00 LAB-04 SIL-01 SAM-01 OMB-01

DODE-00 SS-15 NSC-05 OIC-02 /090 W

----- 018922

R 261310Z JUL 76

FM USDEL MTN GENEVA

TO SECSTATE WASHDC 0000

INFO ALL EC CAPITALS 112

LIMITED OFFICIAL USE MTN GENEVA 5946

ACTION STR

H PASS CODEL

E.O. 11652: N/A

TAGS: ETRD; MTN

SUBJECT: TECHNICAL CONSULTATIONS WITH EC ON GOVERNMENT PROCUREMENT

REF: STATE 175363

1. SUMMARY: US AND EC MET TO DISCUSS OECD DRAFT GOVERNMENT PROCUREMENT CODE. EC SHOWED CONSIDERABLE FLEXIBILITY IN REGARD TO TRANSPARENCY OF GOVERNMENT PURCHASING TRANSACTIONS AND GENERAL DEROGATION CLAUSE, AND ALSO SUPPLIED NEW FIGURES FOR COVERAGE OF FIRST LEVEL OF OBLIGATIONS. GENERAL AGREEMENT REACHED ON SCENARIO FOR ORGANIZATIONAL EETING OF NTM SUBGROUP MEETING ON GOVERNMENT PROCURE-
MENT AND ON FALL WORK IN OECD. END SUMMARY.

2. US DEL (POMERANZ, NEWKIRK, ET AL) MET JULY 21 - 22 WITH EC DEL (DERISBOURG, ABBOTT) FOR TECHNICAL
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 MTN GE 05946 261524Z

LEVEL DISCUSSIONS ON THE OECD CODE AND EXCHANGE OF

VIEWS ON ARRANGEMENTS FOR FALL MEETINGS ON GOVERNMENT PROCUREMENT. US DEL OPENED BY STATING THAT THIS DISCUSSION IS A FOLLOW-UP TO EARLIER DISCUSSIONS BETWEEN AMBASSADOR WALKER AND DDG GALLAGHER. US ASKED IF EC NOW WILLING TO PUT FORWARD NEW IDEAS ON TRANSPARENCY IN RESPONSE TO THESE EARLIER TALKS. EC RESPONDED THAT THEY PREFER TO LOOK FOR SOLUTION IN TERMS OF INFORMATION TO BE PROVIDED TO THE INDIVIDUAL BIDDER. EC STATED THAT EC NOT PUSHING INTERNALLY FOR EX POST PUBLICITY AND THEREFORE THIS WOULD BE A DIFFICULT MEANS OF PROCEEDING IN INTERNATIONAL CODE. EC ENVISAGES TWO LEVELS OF REVIEW BY LOSING BIDDER. ON THE FIRST OR PURCHASING AGENCY LEVEL. THE AWARD PRICE WOULD BE REVEALED AND THERE WOULD BE A DISCUSSION AS TO WHY THE PARTICULAR BID WAS LOST. THE SECOND LEVEL OF REVIEW WOULD BE ON A GOVERNMENT TO GOVERNMENT BASIS AND WOULD INVOLVE A FULL EXCHANGE OF INFORMATION. COMMISSION IS "HIGHLY OPTIMISTIC" THAT THEY WOULD BE ABLE TO BRING MEMBER STATES AROUND TO AGREEING THAT LOSING BIDDERS WOULD BE ENTITLED TO KNOW FULL RATIONALE FOR LOSS OF CONTRACT INCLUDING AMOUNT OF THE WINNING BID. THEY WERE SOMEWHAT LESS OPTIMISTIC ABOUT REACHING AGREEMENT ON INCLUDING THE NAME OF THE WINNING FIRM BUT DID NOT RULE THIS OUT. US RESPONDED THAT EC POSITION INTERESTING AND WE WOULD FURTHER EXPLORE IT IN ORDER TO OFFER RESPONSE IN FALL.

3. SAFEGUARDS: US STATED THAT WE WERE EXPECTING EC REDRAFT OF THEIR SAFEGUARD CLAUSE AS INDICATED BY EC IN WALKER/GALLAGHER TALKS. EC RESPONDED THEY DID NOT HAVE REDRAFT, BUT CLARIFIED OBJECTIVE OF EARLIER LANGUAGE. THEY AGREED WITH US THAT SAFEGUARD WAS NOT THE RIGHT WORD TO APPLY TO THEIR PROPOSAL. WHAT THEY HAD IN MIND IN PROPOSING THIS LANGUAGE WAS THAT A COUNTRY IN DIRE ECONOMIC STRAITS WOULD BE ABLE TO DEROGATE FROM CODE. WITHOUT SUCH LANGUAGE, EC BELIEVES CODE WOULD BE ABROGATED ANYWAY AND THUS THE CODE WOULD BE UNRAVELLED. WHILE THE EC GENERALLY ENVISAGED LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 MTN GE 05946 261524Z

THIS CLAUSE FOR USE IN A GENERAL DEROGATION FROM CODE, THEY THOUGHT IT MIGHT POSSIBLY ALSO BE USED FOR A TEMPORARY SECTORAL DEROGATION (E.G. TEXTILES). IN RESPONSE TO US SUGGESTION, EC THOUGHT IT WOULD BE WORTHWHILE EXPLORING POSSIBILITY OF NOT USING GENERAL DEROGATION CLAUSE, BUT RATHER INCLUDING PROVISION IN CODE FOR TEMPORARY DEROGATION CONSISTENT WITH AUTHORITY TO TAKE ECONOMIC MEASURES UNDER GATT ARTICLES

OR ANY NEW AGREEMENT THAT MIGHT COME OUT OF MTN. WE WILL EXPLORE THIS ISSUE FURTHER IN THE FALL.

4. SUPPLIER INQUIRY RIGHTS: US STATED OBJECTIVE OF INCLUDING PROVISIONS IN CODE THAT ASSURED PROMPT RESPONSE TO BIDDER INQUIRES AT ALL STAGES OF THE PROCUREMENT PROCESS. WHILE INDICATING GENERAL AGREEMENT WITH US OBJECTIVE, EC STATED THAT THEY DID NOT HAVE POSITION ON THIS ISSUE AND WOULD SEEK FURTHER CLARIFICATION IN BRUSSELS.

5. BEST ENDEAVORS: THE US ONCE AGAIN STRESSED OUR NEED FOR FULL CLARIFICATION OF THIS CONCEPT. EC RESPONDED THAT THEY HAD NOT YET REACHED A STAGE INTERNALLY WHERE THEY COULD GIVE THE FULL ANSWER TO US CONCERNS. THEY INDICATED, HOWEVER, THAT SINCE THE NATURE OF THE LINK BETWEEN A GOVERNMENT AND A BEST ENDEAVORS ENTITY WOULD VARY DEPENDING UPON THE COUNTRY AND THE ENTITY INVOLVED, IT MAY BE NECESSARY TO DESCRIBE BEST ENDEAVORS ON A CASE-BY-CASE BASIS. EC THOUGHT THIS TOPIC COULD BE DEALT WITH AT A LATER STAGE IN THE NEGOTIATION.

6. DATA: EC INDICATED THAT THEY HAVE BEGUN PROJECT OF REFINING DATA FOR THE COVERAGE OF FIRST LEVEL ENTITIES. AS FIRST STEP, THEY HAVE ASSEMBLED FOLLOWING INFORMATION:

COUNTRY	YEAR	MILLION DOLLARS
BELGIUM	1972	160
DENMARK		230
WEST GERMANY	1972/73 AVG.	300
FRANCE	1972	1400
IRELAND	1972	23

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 MTN GE 05946 261524Z

ITALY	1972	600 (EST.)
HOLLAND	1971	90
U.K.	1972/73	622
TOTAL		3425

(DATA EXCLUDES DEFENSE, TRANSPORTATION, UTILITIES AND TELECOMMUNICATIONS EQUIPMENT).

EC COMMISSION WILL REFINE THIS DATA OVER THE SUMMER, RE-SUBMIT IT TO MEMBER STATES TO VERIFY ITS ACCURACY, AND PRESENT MORE REFINED FIGURES IN THE FALL. US STATED THAT WE BELIEVE DATA ESSENTIAL NOT ONLY FOR SURVEILLANCE OF THE CODE, BUT ALSO FOR USE IN THE NEGOTIATIONS. EC ACCEPTED US CONCERN BUT STATED THAT THEY COULD PUSH MEMBER STATES ONLY SO FAR IN PROVIDING DATA.

7. NTM SUBGROUP ON GOVERNMENT PROCUREMENT: US SOUGHT

EC VIEWS AS TO ADVISABILITY OF ATTEMPTING TO FOCUS SUBGROUP'S WORK ON OECD DRAFT CODE AS AN INITIAL STEP. ALSO DISCUSSED WAS POSSIBILITY OF MTN SUBGROUP EXAMINING GENERAL ISSUES OF GOVERNMENT PROCUREMENT, WITH EVENTUAL MOVEMENT TOWARD WORK ON OECD DRAFT. EC DID NOT HAVE POSITION, BUT INDICATED THEY WOULD GET BACK TO US AT A LATER DATE. NEITHER DELEGATION HAD FIRM IDEAS FOR CHAIRMANSHIP OF SUBGROUP BUT EC REITERATED BASIC POSITION OF PREFERRING GATT SECRETARIAT PERSONNEL. EC ALSO EXPRESSED SOME CONCERN ABOUT POSSIBILITY OF OECD SECRETARIAT PARTICIPATION IN MTN GOVERNMENT PROCUREMENT WORK.

8. AT CONCLUSION OF MEETING, EC RAISED SUBJECTS OF MURPHY AMENDMENT (WOULD PROHIBIT THE USE OF RIGS OF FOREIGN ORIGIN FOR OFFSHORE DRILLING), NEW YORK STATE LEGISLATION NOW AWAITING GOVERNOR'S SIGNATURE THAT WOULD RESTRICT FOREIGN PURCHASING, PROPOSED LEGISLATION THAT WOULD BAN PURCHASE OF FOREIGN AIRCRAFT BY COAST GUARD AND EFFECT OF PROPOSED GUIDELINES ISSUED BY OFPP TO ACHIEVE UNIFORM APPLICATION OF BUY AMERICAN ACT. US DEL RESPONDED BRIEFLY TO THESE CONCERNS.

9. COMMENT: WHILE NOT OFFERING AS MUCH AS WE HAD HOPED IN THE WAY OF NEW PROPOSALS, EC DEL DID SEEM FLEXIBLE AND FORTHCOMING ON ISSUES DISCUSSED. IF THIS ATTITUDE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 05 MTN GE 05946 261524Z

CAN BE CONTINUED IN FACE OF MEMBER STATE DIFFERENCES, PROGRESS ON THESE ISSUES APPEARS POSSIBLE. END COMMENT. WALKER

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: POLICIES, GOVERNMENT PROCUREMENT, MEETINGS
Control Number: n/a
Copy: SINGLE
Draft Date: 26 JUL 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ShawDG
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976MTNGE05946
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760287-0108
From: MTN GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760722/aaaaasvq.tel
Line Count: 204
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION STR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 STATE 175363
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 06 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <06 APR 2004 by BoyleJA>; APPROVED <04 AUG 2004 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: TECHNICAL CONSULTATIONS WITH EC ON GOVERNMENT PROCUREMENT
TAGS: ETRD, MTN
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006